

**DEMETRIOS K. STRATIS, ESQ. (022391991)**  
**RUTA, SOULIOS & STRATIS, LLP**  
10-04 River Road  
Fair Lawn, New Jersey 07410  
(201) 794-6200/ (201) 794-6300 Fax  
Email: [dstratis@stratislaw.com](mailto:dstratis@stratislaw.com)  
Attorneys for Defendant, DANIEL S COURNEY

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

DANIEL S COURNEY

Defendant.

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

***MAJ. NO. 21-mj-15452 (ESK)***

**MEMORANDUM IN SUPPORT OF  
MOTION FOR PERMISSION TO LEAVE  
THE JURISDICTION OF THIS COURT  
AND ADJOURN THE PRELIMINARY  
HEARING**

**MOTION TO LEAVE THE JURISDICTION OF THE COURT**

1. As a result of the charges set forth in the criminal complaint, Defendant appeared before the Court and as a result, he is not permitted to leave the jurisdiction of this State and is also directed to maintain gainful employment.
2. Defendant is married and has six children who are minors.
3. Defendant is charged with two counts of violating 18 USC sect 248 (a)(1), each count representing two different dates, October 16, 2021 and October 30, 2021. Allegedly, Defendant was outside an abortion clinic In Englewood, New Jersey and allegedly did “intimidate and interfere with” a victim who was providing reproductive health service specifically, abortions. See Criminal Complaint.

4. Defendant pleads not guilty and asserts he did not. Defendant is a confessing Christian with the sincere religious belief that abortion is the killing of innocent babies. He further has sincerely held religious beliefs that he must discharge a duty to God by publicly communicating the tenets of his religious faith to other people, and orally profess the message of salvation through Jesus Christ. Oral communication is a primary means by which he communicates his religious beliefs.
5. Defendant assembles, along with others, on the city street in Englewood near the abortion clinic Metropolitan Medical Associates at 40 Engle Street, Englewood, NJ in order to exercise his First Amendment Right to Free Speech and engage in dialogue with passersby about life in Jesus Christ and that abortion was the killing of babies. In an effort to suppress his actions of Free Speech, members of the abortion clinic are using law enforcement and the City of Englewood as a means to suppress the Defendant's constitutional rights on a matter of extreme public debate—abortion.
6. Defendant is presently involved in a number of cases in Municipal Court and Bergen County Superior Court all stemming from his presence at the abortion clinic and professing his sincerely held religious beliefs against abortion. The employees at the abortion clinic do not want him there and have engaged in a campaign to take whatever means necessary to thwart and obstruct Defendants right to Free Speech including using the criminal process to do so.
7. As to the charges herein, video of the events of October 16, 2021 and October 30, 2021 are available from the defense and can be viewed by the Court via the following links for Dropbox:  
  
October 16, 2021:

<https://www.dropbox.com/s/sj5h34mjw5g9tco/body%20cam%20of%20October%2016%202021.mp4?dl=0>

October 30, 2021:

<https://www.dropbox.com/s/gll5u0pnj760pg3/events%20from%20body%20cam%20of%20Oct%2030%202021.mp4?dl=0>

8. Defendant was formally trained at three different theological schools of higher learning for ministry and has spent ten years on the foreign field as a missionary and missions director. Attached is a letter from the Pastor at Arbor Heights Bible Church which have supported Defendant for the last 6 years as Exhibit A. It sets forth that Defendants ministry and employment require that he return to the mission field outside of the jurisdiction of this Court, specifically, Nepal.
9. Before the events of the underlying charges, Defendant had plans to return to Nepal for his missionary work. He purchased plane tickets to Nepal for his entire family. Attached as Exhibit B is a copy of his itinerary for travel on November 28, 2021 which tickets were purchased on October 12, 2021. (Exhibit B.) The costs paid thus far for those tickets are \$3,134.20.
10. Indeed, the apartment he and his wife and six children reside in at 208 Phelps Avenue, Bergenfield, NJ is being sold and he and his family are expected to vacate it by November 30, 2021. See Notice of Intent to Vacate attached as Exhibit C.
11. As further proof of his involvement in the ministry in Nepal, attached is a letter from the Nepal ministry signed by the President of JB Foundation Nepal. See Exhibit D.
12. Defendant understands that he must appear at all stages of the proceeding in this matter and can do so remotely while he is abroad and agrees to comply with any and all

restrictions so that he can be gainfully employed in his ministry work outside the jurisdiction of this Court.

13. Another Church which supports Defendant is Frontline Community Church and Pastor Chad Israel authored a letter regarding Defendants role as missionary and of Defendants understanding regarding his compliance with Court directives including appearing at any court appearances so requiring his attendance. See Exhibit E.

14. Defendant cannot remain in the US without jeopardizing his source of income and his ability to feed his family. He is founding member of our NGO and his presence is required.

15. In addition, his wife and he also sell merchandise online and need to be back where our goods supply is located which is Nepal.

16. He has never violated any court orders and has no criminal record, having never been convicted of any crime. He fully intends on attending every virtual hearing and have no problem returning to the US when the courts open, for the nature of his online business requires him to frequently travel to and from the US.

17. As such, he respectfully requests permission to travel outside of the US to perform his missionary work and services and continue his employment as a missionary and God's calling to serve those in need and those who need the message of salvation.

#### **MOTION TO ADJOURN PRELIMINARY HEARING**

18. I am advised that the preliminary hearing is scheduled for November 16, 2021. Unfortunately, I am traveling to NJ on November 16, 2021 for a trial in Middlesex County Superior Court and would ask that the preliminary hearing be adjourned to another date.

**DEFENDANTS CONDUCT IS NOT ACTIONABLE WHICH IS RELEVANT TO  
LIFTING TRAVEL RESTRICTIONS**

19. Sidewalk Counseling, as it has been labelled, is the act of attempting to discourage women from having an abortion. Hill v. Colorado, 530 U.S. 703, 708, 120 S. Ct. 2480, 147 L. Ed. 2d 597 (2000). A Massachusetts community created a 35-foot buffer which was struck down as violative of free speech. McCullen v. Coakley, 573 U.S. 464, 134 S. Ct. 2518, 189 L. Ed. 2d 502 (2014). Defendant's desired expression lies safely within the protections of the First Amendment of the United States Constitution.
20. Far from a First Amendment orphan, religious speech is entitled to utmost protection. Capitol Square Review and Advisory Board v. Pinette, 515 US 753 (1995). Indeed, the right to advocate or share a religious or political viewpoint implicates the very reason the First Amendment was adopted. Thomas v. Collins, 323 U.S. 516, 537 (1945). And, the use of a sign operates at the core of the First Amendment. Boos v. Barry, 485 U.S. 312, 318 (1988).
21. Admittedly, expression emanating from a religious viewpoint or dealing with the issue of abortion may invite dispute. Nevertheless, constitutional protection does not fade because the speech may be despised or controversial. See, e.g., Madsen v. Women's Health Center, 512 U.S. 753, 773-74 (1994) (anti-abortion expression); R.A.V. v. City of St. Paul, 505 U.S. 377 (1992) (cross-burning); United States v. Eichman, 496 U.S. 310, 319 (1990) (flag burning).
22. Popular speech and pleasant words have little need for constitutional protection. City of Houston, 482 U.S. at 462 n.11. The true test of the right to free speech is the protection

afforded to unpopular, unpleasant, disturbing or even despised speech. *Id.* As the Supreme Court has explained:

[A] function of free speech under our system of government is to invite dispute. It may indeed best serve its high purpose when it induces a condition of unrest, creates dissatisfaction with conditions as they are, or even disturbs people with anger. Speech is often provocative and challenging. It may strike at prejudices and preconceptions and have profound unsettling effects as it presses for acceptance of an idea. That is why freedom of speech is protected against censorship or punishment. There is no room under our Constitution for a more restrictive view. Cox v. Louisiana, 379 U.S. 536, 551 (1965) (editing marks and citation omitted).

23. Thus, the constitutional protection afforded Defendant's expression is in no way diminished by the fact that listeners find it offensive or respond in a way that threaten public safety. "If there is a bedrock principle underlying the First Amendment, it is that the government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable." Texas v. Johnson, 491 U.S. 397, 414 (1989).

24. Criminalizing Free Speech is not to be condoned. Criminal statutes or ordinances cannot be applied in a way so as to proscribe constitutionally protected expression. City of Houston v. Hill, 482 U.S. 451, 465-67 (1987). Statutes can only appropriately sanction categories of speech that have been traditionally regarded as being beyond the protection of the First Amendment. *Id.*

25. Defendant's expression is well within constitutional protection. His speech is not obscene, and the message does not constitute "fighting words." Any contention to the contrary belies the record before this court. In fact, to the degree a disturbance was caused, it was created entirely by the reaction of those in disagreement with the contents of his expression and law enforcement officers. And, by taking into account the reaction of listeners, Defendant's free speech is infringed upon and a "hecklers veto" cannot be sanctioned.

26. These sorts of restrictions, premised on heckler's vetoes, are uniformly held constitutionally impermissible. *E.g. NAACP v. Claiborne Hardware*, 458 U.S. 886, 932-34 (1982) (state may not bar public gathering "annoying" to others); *Coates v. City of Cincinnati*, 402 U.S. 611, 616 (1971) (ordinance prohibiting conduct "annoying to persons passing by" held to violate right to free assembly and speech); *Bachellar v. Maryland*, 397 U.S. 564, 567 (1970) (protestors cannot be punished because of "resentment" of spectators). "As a general matter, ...in public debate our own citizens must tolerate insulting, and even outrageous, speech in order to provide adequate breathing space to the freedoms protected by the First Amendment." *Boos*, 485 U.S. at 322 (internal quotation marks and citations omitted).
27. Simply put, the First Amendment precludes police officers from coloring free speech activity as criminal conduct. For example, in *Gregory v. City of Chicago*, 394 U.S. 111 (1969), demonstrators were marching through a residential neighborhood protesting school segregation. *Gregory*, 394 U.S. at 111. After a number of onlookers became unruly, police officers on the scene feared "impending civil disorder" and demanded that the demonstrators disperse. When they refused, they were arrested for disorderly conduct. *Id.* The Court held that the record was devoid of evidence that the demonstrators' conduct was disorderly and that the reaction of the onlookers was not a permissible basis for finding otherwise. *Id.* at 111-12. As Justice Black explained, the disorderly conduct charge was based exclusively on the police conclusion that "the hecklers observing the march were dangerously close to rioting and that the demonstrators and others were likely to be engulfed in that riot." *Id.* at 120 (Black, J., concurring). This is precisely the case at hand.

Dated: November 12, 2021

Respectfully submitted,

*Demetrios K. Stratis*

Demetrios K. Stratis, Esq.  
RUTA, SOULIOS & STRATIS LLP  
10-04 River Road  
Fair Lawn, New Jersey 07410  
Phone: (201) 794-6200  
Facsimile: (201) 794-6300  
Email: [dstratis@stratislaw.com](mailto:dstratis@stratislaw.com)



# EXHIBIT A

11/04/2021

Dear Judge:

I wanted to write to you concerning Daniel Stephen Courney. Mr. Courney is engaged in full-time Christian evangelism as a missionary supported by Arbor Heights Bible Church here in Douglasville, Ga. We have been supporting Mr. Courney in his missionary endeavors for the past 6 years. Other Christians and churches also support Mr. Courney in his missionary efforts.

Daniel's ministry requires him to be on the field in Nepal. Therefore, if Mr. Courney is unable to return to the field, that would place a financial burden upon himself, his family, as well as the mission that he is engaged in as he relies upon the support of these churches and Christians.

Matt Rayburn  
Pastor/Elder  
Arbor Heights Bible Church

# EXHIBIT B



FOOL FOR CHRIST &lt;gospelofglorymissions@gmail.com&gt;

## Fwd: FareScan - E-Ticket Confirmation - 1014886885

The West Family &lt;china.myadventures@gmail.com&gt;

Tue, Oct 12, 2021 at 4:08 PM

To: "gospelofglorymissions@gmail.com" &lt;gospelofglorymissions@gmail.com&gt;

Finally here are all the ticket numbers!

----- Forwarded message -----

From: **FareScan** <support@farescan.com>

Date: Tue, Oct 12, 2021 at 15:01

Subject: FareScan - E-Ticket Confirmation - 1014886885

To: &lt;china.myadventures@gmail.com&gt;



☎ +1-858-777-6966

### E-Ticket Confirmation

Thank you for choosing FareScan and for trusting your travel plans with us. We truly appreciate your business.

Your **Trip #1014886885** is now confirmed and ticketed. This booking is **non-refundable** and to inquire about any changes, please contact us at **+1-858-777-6966**. The E-Ticket numbers and receipt of the charges are shown below. We recommend you keep a copy of this page for future reference/enquiry.

To access your online itinerary please click the button below

[Review your Trip](#)

Or copy paste the link in your browser:

<https://www.farescan.com/trips/dashboard>



#### Trip Overview

Trip Ref # **1014886885**

PNR / Booking ID

Itinerary

Status

Price

**MB272D**EWR - KTM  
Nov 28

Partially Ticketed

**\$3134.2**

#### Flight Information

PNR # **MB272D**

##### Passenger Details

Last Name

First Name

Middle Name

Freq. Flyer#

E-Ticket#

Courney

Daniel

235-7635858778

Courney	Anusha	235-7635858779
Courney	Ann	235-7635858780
Courney	Evangelina	235-7635858781
Courney	Theophilus	235-7635858782
Courney	Anastasia	235-7635858783
Courney	Sophia	235-7635858784
Courney	Moses	

Itinerary Details

Depart | Newark - Kathmandu (1d 0h 10m )

Stops: 1



TURKISH AIRLINES  
TK 30

**EWR**  
Newark,US  
12:20 AM,28 Nov

**IST**  
Istanbul,TR  
6:15 PM,28 Nov

AIRLINE PNR  
UTXTXV

Duration  
9h 55m

Class  
L

Equipment  
AIR

Baggage

Seat #

Istanbul (IST) - 7H 20M Layover



TURKISH AIRLINES  
TK 726

**IST**  
Istanbul,TR  
1:35 AM,29 Nov

**KTM**  
Kathmandu,NP  
11:15 AM,29 Nov

AIRLINE PNR  
UTXTXV

Duration  
6h 55m

Class  
L

Equipment  
AIR

Baggage

Seat #



Price Details

Currency: USD

Item	Count	Base Fare	Taxes & Fees	Sub Total
ADT	2	\$463.00	\$528.00	\$991.00
CHD	5	\$767.50	\$1320.00	\$2087.50
INF	1	\$31.00	\$24.70	\$55.70
Grand Total				<b>\$3134.20</b>



Payment Details

Currency: USD

Trans. Date	Card Type	Card No.	Price
Oct 11, 2021	CREDIT CARD	xxxx-xxxx-xxxx-8524	3134.20

### Passenger Details

Full Name	Phone Number	Email
Daniel Courney	1 4052655695	<a href="mailto:china.myadventures@gmail.com">china.myadventures@gmail.com</a>

### Customer Support Details

Phone Number	Email
1-858-777-6966	<a href="mailto:support@farescan.com">support@farescan.com</a>

### Terms & Conditions

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**RECONFIRMATION.** Domestic flights should be reconfirmed in cases of inclement weather situations or if a flight was booked some length of time prior to departure and international flights at least 72 hours prior to departure. . Failure to use any reservations may result in automatic cancellation of all continuing and return reservations.

**EXCURSION AND PROMOTIONAL FARES.** Most discount fares involve restrictions. A change in carrier(s), flight(s), time(s), or routing(s) could result in a carrier demanding a full fare. Obtain agency or airline assistance before making changes. If your plans change enroute, apply the value of your tickets toward a re-issued one. It is not necessary to purchase a new ticket. If a refund is due, obtain a receipt from the airline. Departure times, flights and fares are based on current tariffs that are subject to change without notice.

**TICKETS.** Canceled or unused tickets (paper) must be returned for proper credit to your account (airline rules and restrictions will apply). Unused E-tickets should be reported to FareScan to be logged and used toward future travel. Lost, stolen or destroyed tickets (paper) must be paid for until refund is received from the issuing carrier, subject to an airline imposed service charge.

**HOTELS** are usually confirmed on a guaranteed payment basis. If you cancel or change plans, please notify your hotel(s) within the time period specified.

**TOUR/PACKAGE PRICES** are subject to change without notice due to currency fluctuations, tariff changes or increase in operational costs. In addition, group tours/packages are based on a minimum number of passengers traveling: if the number of passengers falls below the minimum required, a surcharge may be imposed on all other passengers.

**IMPORTANT:** If you arrive at an airline ticket or passenger check-in counter with your confirmed ticket and find that the airline shows no reservation for you - do not leave the counter. Check your ticket or itinerary for your confirmation number and indicate it to the airline agent. If necessary ask to speak with a supervisor. We reserve the right to charge processing fees in the event of refunds, cancellations or special services. Proof of identity is required for both domestic and international travel. Necessary identification includes a valid driver's license, passport and visas when required. It is each traveler's responsibility to verify the necessary travel documents required for each specific country to be visited prior to departure.

We Strongly Recommend Travel Insurance.

**WHAT YOU SHOULD KNOW ABOUT AIRLINE BANKRUPTCIES.** Hopefully there will not be any more airline bankruptcies, but it has to be recognized that they might occur. If an airline declares bankruptcy, the airline is not obligated to transport you or to refund tickets issued before the bankruptcy. Travel agents are not allowed to refund tickets on airlines that have declared bankruptcy. Money given to a travel agent immediately becomes the property of the airlines; we are required by law to comply with the airline orders. If an airline declares bankruptcy it might continue service, limited service, or stop service completely. Other airlines might accept passengers under limited circumstances or may refuse to accept any passengers from the defaulted carrier. To protect yourself, we urge you to consider travel insurance. There are many travel insurance plans available for passengers to protect themselves in case of airline bankruptcies. Please ask your agent about them.

**IMPORTANT NOTICE:** FareScan and its agents try to secure the lowest possible fare suitable for your travel requirements based on space available at the time of booking, accessible sources of information, and knowledge of agents involved. Please verify the airline Fare Rules for the itinerary you are booking, since some fares are non-refundable and may result in penalties for changes or cancellations. Fares are not guaranteed until tickets are issued. You will receive an e-mail confirmation once your tickets have been issued.

**PLEASE NOTE:** Retention of tickets, reservations or bookings after issuance shall constitute acceptance of all provisions in the conditions listed hereto, as well as those terms and conditions set forth in the announcements and circulars of the tour/package, cruise or service

*\*Taxes and Government Fees Are Additional*

Prices shown are for one adult and are subject to additional charges, including, without limitation: the September 11th Security fee of \$2.50 for each flight segment, with a maximum of up to \$5.00 per one-way or \$10.00 per round-trip; Passenger Facility Charges of up to \$18.00, depending on itinerary; Federal Segment Fees of \$3.20 per segment; a Travel Facilities Tax of up to \$14.00 per round-trip for domestic flights beginning or ending in Alaska or Hawaii; and for International Travel, Foreign and U.S. Government-imposed charges of up to \$200.00 per round-trip, depending on routing and destination. A segment is defined as a takeoff and a landing.

**Thank You**  
FareScan

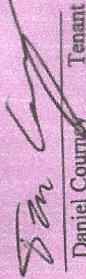


# EXHIBIT C

NOTICE OF INTENT TO VACATE

I, Daniel Courtney, am a tenant occupying the main floor apartment at 208 Phelps Avenue, Bergenfield, N.J., which is owned by Dila Lulaj, as Landlord. I hereby give notice that I shall vacate the apartment on November 30, 2021, and that I shall continue to pay rent through that date. Upon my vacating the apartment on or before that date, without any damage to the apartment, I shall receive the full return of my security deposit, in the amount of \$4500.00. Should I fail to vacate the apartment by November 30, 2021, or should be de damages to the apartment, my landlord shall have the right to proceed as permitted by law.

Dated:

  
Daniel Courtney Tenant

Dated:

I agree to the above terms.

  
Dila Lulaj Landlord

# EXHIBIT D

JB Foundation Nepal  
PAN #: 609752753  
Social Welfare #: 51491  
November 22, 2020



*Dear Daniel and Anusha Courney,*

*We express our gratitude to you and your family for investing your life for Nepali people. We are blessed by your fearless gospel preaching lifestyle. We also want to thank you for supporting the set up of the shelter for children at risk with JB Foundation. You did not preach only but lived a life of example. We want to continue our partnership for the coming days too. May God bless the next missionary venture.*

*"Therefore, my beloved brothers, be steadfast, immovable, always abounding in the work of the Lord, knowing that in the Lord your labor is not in vain."*

*~1 Corinthians 15:58~*

Sincerely in Christ,

**President**

Hari Krishna Adhikari

A handwritten signature in dark ink, appearing to read "Hari Krishna", written over the printed name.

# EXHIBIT E

11/04/2021

Dear Judge:

I wanted to write to you concerning Daniel Stephen Courney. Mr. Courney is engaged in full-time Christian evangelism as a missionary supported by Frontline Community Church here in Powder Springs GA as well as many other individual Christians and other Christian Churches. As you are aware he is currently planning on returning to Nepal with his wife and 6 children and has purchased tickets to do so departing Nov 28<sup>th</sup>. I have spoken with Mr. Courney about his court cases and it is his understanding that he can remotely join these and not be in contempt of court.

Missing court appearances would be a disgrace and bring dishonor to both himself and be a direct violation of the word of God which he holds in high esteem. His desire would be to submit to the will of God by obeying the orders of the court and bring glory to God by doing so.

The Courney family has been on mission in Nepal and India where other indigenous pastors rely on his mission for monthly support. The NGO work in Nepal requires Mr. Courney and his family to be back in place on the ground where he has been called.

Not being allowed to return to his work would place an undue financial burden on him, his family and other pastors the mission supports as he relies on the charitable donations of others to support the gospel outreach mission in which he serves.

Sincerely.

Chad D. Israel  
Pastor/Elder  
Frontline Community Church